THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16723 of 2007

Dated:07.08.2007

Between:

Mohd.Arif Pasha, S/o.Abdul Nabi.

…Petitioner

and

The Tahasildar, and another.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16723 of 2007

ORDER:

The petitioner is a resident of Nizampet, Khammam District. Statedly, he purchased an extent of Acs.2.00 of land in Survey No.148 situated at Velugumatla Village of Khammam (Urban) Mandal in Khammam District from M/s.P.Hanumanth, P.Bhoomulu and P.Babu under various registered sale deeds. Admittedly, the above said land originally belonged to one Chandraiah. He was assigned Bhoodhan land. Nevertheless, the first respondent initiated action and after issuing show cause notice and receiving explanation, passed order under Section 4 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act'), vide proceedings in Rc.No.B/3324/2007-13, dated 20.07.2007, ordering resumption of the land from the petitioner for public purpose. Feeling aggrieved by the same, the petitioner filed an appeal on 28.07.2007 under Section 4-A of the Act before the second respondent. He also sought for necessary interim orders staying further proceedings consequent to the impugned order. The appeal is still pending. But, still the petitioner filed the present Writ Petition raising a question that when the land is admittedly, the one, assigned by Bhoodhan Yagna Board, the provisions of the Act are not applicable, and that the land purchased by the petitioner is not "assigned land" within the meaning of Section 2(1) of the Act. Learned Counsel for the petitioner also placed reliance on an unreported judgment of this Court in **Ramachander v. District Revenue Officer**[1].

Learned Assistant Government Pleader for Revenue

(Assignment) opposed the Writ Petition contending that when once statutory appeal is filed, a Writ Petition would not lie.

It is well settled by reason of the judgment of the Supreme Court in **Bombay Metropolitan Region Development Authority v. Gokak Patel Volkart Ltd.,**[2] that when once the statute determines rights and liabilities of a person, and provides for remedies, such person should avail such remedies under the statute before coming to this Court. Secondly, it is also well settled that when such person has already availed such remedy, and merely because the statutory authority before whom the appeal is filed is not taking up the matter or failed to pass interim orders as prayed, the jurisdiction of this Court cannot be invoked. Having regard to the same, this Court is not inclined to interfere in this Writ Petition at this stage. Liberty is given to the petitioner to raise all preliminary objections and also place before the second respondent the decision of this Court in W.P.No.4503 of 1975, dated 16.12.1976. The second respondent shall have to necessarily consider the questions raised by the petitioner.

Learned Counsel for the petitioner submits that though the order was passed by the first respondent on 20.07.2007, the land is not resumed, and the petitioner is still in possession. To enable the petitioner to obtain appropriate orders from the second respondent – appellate authority; there shall be *status quo* for a period of two weeks from today. This is not opposed by the learned Assistant Government Pleader.

In the result, the Writ Petition is disposed of giving liberty to the petitioner to raise all objections including the objections raised in this Writ Petition, and the second respondent is directed to dispose of the appeal within a period of two weeks keeping in view the provisions of the Act as well as the decision of this Court in W.P.No.4503 of 1975, dated 16.12.1976.

The Writ Petition is accordingly disposed of. No costs.

(V.V.S.RAO, J)

07.08.2007
Note: Issue C.C by 09.08.2007.
B/o.
vs

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[1] W.P.No.4503 of 1975, dated 16.12.1976.

[2] (1995) 1 SCC 642